



City Clerk's Office
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PO Box 580
Fort Collins, CO 80522
970-221-6515
elections@fcgov.com

December 26, 2023

Emily Francis

Emily for Fort Collins Campaign Committee

Via email: emilyforfc@gmail.com

Re: Response to Complaint against Emily Francis

Ms. Francis:

The City is in receipt of your response to the campaign finance complaint filed against the Emily for Fort Collins Campaign Committee (the "Campaign Committee"). The City appreciates your response and believes it is in the public interest to allow you an additional opportunity to address the allegations via cure or mitigation. As you know, the requirements of Chapter 7, Article V of the Fort Collins Municipal Code, regarding paid-for-by disclosures provides as follows:

Whenever a candidate, candidate committee, issue committee, political committee or registered small-scale issue committee makes an expenditure for the purpose of financing communications **expressly advocating a particular result in an election**, or solicits any contribution or contribution in-kind through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, **such communication** if paid for or authorized by a candidate, candidate committee, issue committee, political committee, registered small-scale issue committee, or any agent for the same, **shall clearly state that the communication is paid for by** that candidate, candidate committee, issue committee, political committee or registered small-scale issue committee.

Municipal Code Section 7-140(a)(1) (emphasis added).

The "paid-for-by" statement "must be clear and conspicuous in the communication." Section 7-140(c). Your response states that the text message in question "was not an advocacy or fundraising piece, it was more of a get out the vote piece and specially NOT directed to the general public..." The text message at issue reads: "Hey Joann, this is Emily Francis running to [sic] Fort Collins City Council District 6! I am running for re-election as the only progressive candidate because I believe in affordable housing, accessible transportation, and climate responsibility. Stop to quit. Can I count on your vote this November?"

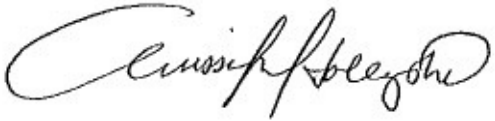
This text identifies that it is from a candidate, Emily Francis, and it identifies several policy areas of interest, ending in asking for the recipient's vote at the November election. This expressly advocates for an election result: asking the recipient to vote for Emily Francis. Further, a text message is a "communication" as described in Section 7-140. The definition of "communication" therein is not exclusive, meaning that the "including but not limited to" language leading into the definition allows for additional types of communication to fall under such definition even if they are not explicitly listed in the Municipal Code. Therefore, the text message in question requires a "paid-for-by" disclosure clearly and conspicuously included in the communication.

Pursuant Section 7-145(6), the City Attorney, by and through special counsel, and on receipt of the Campaign Committee's response to the complaints, must determine if the violation has been cured and, if so, whether the Campaign Committee has substantially complied with its legal obligations under Chapter 7, Article V of the Code. In your response, you asked whether including the "paid-for-by" disclosure in future text messages is a sufficient cure to this violation. While including this disclosure in future communications will prevent a similar violation from occurring again, this does not cure the existing violation.

Accordingly, while the election has since passed, there is still a cure, if not only a mitigation of the violation, available to you. The City would request that you issue a corrective text message informing recipients of the original text message that the Campaign Committee mistakenly did not include the required paid-for-by disclosure. Once this corrective text message is sent and the City receives proof of its distribution, the City will deem this Complaint resolved. In the alternative, the City will be compelled to seek the other remedies set forth in the Municipal Code.

If you have any questions regarding the above options, please do not hesitate to contact us.

Regards,

A handwritten signature in black ink, appearing to read "Anissa N. Hollingshead". The signature is fluid and cursive, with the first name being the most prominent.

Anissa N. Hollingshead
City Clerk

cc: Corey Y. Hoffmann, Esq.
Carrie Daggett, City Attorney
Sara Arfmann, Assistant City Attorney